

**IN THE DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Case No. 3:21-cr-0018
)	
INOCENCIO ESPANA CASTILLO, NESTOR VERA ESCALANTE, and JAIRO RIASCOS PRECIADO,)	
)	
Defendants.)	
)	

ORDER

BEFORE THE COURT is the trial in this matter currently scheduled for November 15, 2021. For the reasons stated herein, the time to try this case is extended up to and including May 23, 2021.

The Speedy Trial Act, 18 U.S.C. § 3161 *et seq.*, (the “Act”) requires that defendants be tried within seventy days of indictment. Nevertheless, pursuant to 18 U.S.C. § 3161(h)(1), the Act excludes “[a]ny period of delay resulting from other proceedings concerning the defendant, including . . . delay resulting from any pretrial motion, from the filing of the motion through the conclusion of the hearing on, or other prompt disposition of, such motion. . . .” 18 U.S.C. § 3161(h)(1)(D). Specifically, the Act excludes “the period from the filing of the motion until the parties complete the submissions necessary for the court to reach a decision” from the seventy-day limit. *United States v. Felton*, 811 F.2d 190, 195 (3d Cir. 1987)(citing *Henderson v. United States*, 476 U.S. 321, 329 (1986)). The Act further excludes any “delay reasonably attributable to any period, not to exceed thirty days, during which any proceeding concerning the defendant is actually under advisement by the court.” 18 U.S.C. § 3161(h)(1)(H). The Third Circuit has found that this subsection encompasses pretrial motions under advisement. *Felton*, 811 F.2d at 197.

On October 19, 2021, Defendant Jairo Riascos Preciado (“Preciado”) filed a Motion to Dismiss in the instant matter. (ECF No. 20.) The United States filed its opposition on November 2, 2021. (ECF No. 26). Defendant Preciado has not yet filed a reply. Accordingly,

United States v. Castillo et al.
Case No.: 3:21-cr-0018
Order
Page 2 of 3

the Court finds that a continuance is warranted to allow parties the time to fully brief the motion and for the Court to take the motion under advisement.

Moreover, in response to the current conditions in the COVID-19 pandemic, the undersigned, as Chief Judge of the District Court of the Virgin Islands, issued a general order concerning operations of the Court on October 31, 2021, deeming the time period of November 1, 2021 through November 30, 2021, to be “excluded time” under the Speedy Trial Act for purposes of determining when an information or indictment must be filed or when a trial must commence pursuant to 18 U.S.C. § 3161(h)(7)(A).¹ The Court hereby fully incorporates the findings from the Court’s Twenty-Seventh Operations Order as fully stated herein.

To date, the COVID-19 virus has claimed more than 756,000 lives in the United States (84 of which have been in the U.S. Virgin Islands). COVID-19 continues to present an unpredictable threat to public health and safety, as shown in the recent surge in COVID-19 cases both in the continental United States and the Virgin Islands. As a multi-defendant case, this case presents significant challenges for the Court to comply with social distancing guidelines during the jury trial. Practical considerations would require additional spacing for Defendants, counsel, and jurors—and the potential for additional jurors in the courtroom. As such, the Court finds that extending the period within which Defendants may be tried under the Speedy Trial Act is necessary for the protection and well-being of the Defendants, the jury, the prosecutors, the witnesses, the Court’s personnel, and the general public at large.

The premises considered, it is hereby

ORDERED that the time beginning from the date of this order granting an extension through May 23, 2022 **SHALL** be excluded in computing the time within which the trial in this matter must be initiated pursuant to 18 U.S.C. § 3161; it is further

ORDERED that the parties **SHALL** file and serve a pre-trial brief no later May 16, 2022, which shall include the following: (a) proposed list of witnesses; (b) proposed list of

¹ <https://www.vid.uscourts.gov/sites/vid/files/general-ordes/Twenty-Seventh%20Order%20Concerning%20Court%20Operations%20During%20COVID%20Outbreak.pdf>

United States v. Castillo et al.
Case No.: 3:21-cr-0018
Order
Page 3 of 3

exhibits; (c) estimated length of case-in-chief and case-in-defense; (d) proposed non-standard *voir dire* questions; and (e) proposed non-standard jury instructions related to the elements of the charges and defenses; it is further

ORDERED that the parties **SHALL** provide the Clerk of Court with a USB Flash Drive containing electronic versions of exhibits no later than May 18, 2022;² and it is further

ORDERED that the jury selection and trial in this matter **SHALL** commence promptly at 9:00 on May 23, 2022, in St. Thomas Courtroom 1.

Dated: November 12, 2021

/s/ Robert A. Molloy
ROBERT A. MOLLOY
Chief Judge

² Counsel are advised to consult with Court technical staff to determine the proper format for saving electronic versions of exhibits. The Government's trial exhibits shall be labelled sequentially beginning with Government's Exhibit 1. Defense exhibits shall be labelled sequentially beginning with Defense Exhibit A.